

REFERENCE TITLE: agricultural composting definition

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## HB 2349

Introduced by  
Representatives Mason, Ableser, Miranda B, Pancrazi: Chabin, Farley,  
Goodale, Jones, Lopes

### AN ACT

AMENDING SECTION 9-462.01, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-462.01, Arizona Revised Statutes, is amended to  
3 read:

4 **9-462.01. Zoning regulations; public hearing; definitions**

5 A. Pursuant to this article, the legislative body of any municipality  
6 by ordinance may in order to conserve and promote the public health, safety  
7 and general welfare:

8     1. Regulate the use of buildings, structures and land as between  
9 agriculture, residence, industry, business and other purposes.

10     2. Regulate signs and billboards.

11     3. Regulate the location, height, bulk, number of stories and size of  
12 buildings and structures, the size and use of lots, yards, courts and other  
13 open spaces, the percentage of a lot which may be occupied by a building or  
14 structure, access to incident solar energy and the intensity of land use.

15     4. Establish requirements for off-street parking and loading.

16     5. Establish and maintain building setback lines.

17     6. Create civic districts around civic centers, public parks, public  
18 buildings or public grounds and establish regulations therefor.

19     7. Require as a condition of rezoning public dedication of  
20 rights-of-way as streets, alleys, public ways, drainage and public utilities  
21 as are reasonably required by or related to the effect of the rezoning.

22     8. Establish floodplain zoning districts and regulations to protect  
23 life and property from the hazards of periodic inundation. Regulations may  
24 include variable lot sizes, special grading or drainage requirements, or  
25 other requirements deemed necessary for the public health, safety or general  
26 welfare.

27     9. Establish special zoning districts or regulations for certain lands  
28 characterized by adverse topography, adverse soils, subsidence of the earth,  
29 high water table, lack of water or other natural or man-made hazards to life  
30 or property. Regulations may include variable lot sizes, special grading or  
31 drainage requirements, or other requirements deemed necessary for the public  
32 health, safety or general welfare.

33     10. Establish districts of historical significance provided that:

34         (a) The ordinances may require that special permission be obtained for  
35 any development within the district if the legislative body has adopted a  
36 plan for the preservation of districts of historical significance which meets  
37 the requirements of subdivision (b) of this paragraph, and the criteria  
38 contained in the ordinance are consistent with the objectives set forth in  
39 the plan.

40         (b) A plan for the preservation of districts of historical  
41 significance shall identify districts of special historical significance,  
42 state the objectives to be sought concerning the development or preservation  
43 of sites, area and structures within the district, and formulate a program  
44 for public action including the provision of public facilities and the

1 regulation of private development and demolition necessary to realize these  
2 objectives.

3 (c) The ordinance establishing districts of historical significance  
4 shall set forth standards necessary to preserve the historical character of  
5 the area so designated.

6 (d) The ordinances may designate or authorize any committee,  
7 commission, department or person to designate structures or sites of special  
8 historical significance in accordance with criteria contained in the  
9 ordinance, and no designation shall be made except after a public hearing  
10 upon notice of the owners of record of the property so designated. The  
11 ordinances may require that special permission be obtained for any  
12 development respecting the structures or sites.

13 11. Establish age specific community zoning districts in which  
14 residency is restricted to a head of a household or spouse who must be of a  
15 specific age or older and in which minors are prohibited from living in the  
16 home. Age specific community zoning districts shall not be overlaid over  
17 property without the permission of all owners of property included as part of  
18 the district unless all of the property in the district has been developed,  
19 advertised and sold or rented under specific age restrictions. The  
20 establishment of age specific community zoning districts is subject to all of  
21 the public notice requirements and other procedures prescribed by this  
22 article.

23 12. Establish procedures, methods and standards for the transfer of  
24 development rights within its jurisdiction. Any proposed transfer of  
25 development rights from the sending property or to the receiving property  
26 shall be subject to the notice and hearing requirements of section 9-462.04  
27 and shall be subject to the approval and consent of the property owners of  
28 both the sending and receiving property. Before any transfer of development  
29 rights, a municipality shall adopt an ordinance providing for:

30 (a) The issuance and recordation of the instruments necessary to sever  
31 development rights from the sending property and to affix development rights  
32 to the receiving property. These instruments shall be executed by the  
33 affected property owners and lienholders.

34 (b) The preservation of the character of the sending property and  
35 assurance that the prohibitions against the use and development of the  
36 sending property shall bind the landowner and every successor in interest to  
37 the landowner.

38 (c) The severance of transferable development rights from the sending  
39 property and the delayed transfer of development rights to a receiving  
40 property.

41 (d) The purchase, sale, exchange or other conveyance of transferable  
42 development rights prior to the rights being affixed to a receiving property.

43 (e) A system for monitoring the severance, ownership, assignment and  
44 transfer of transferable development rights.

1                 (f) The right of a municipality to purchase development rights and to  
2 hold them for resale.

3                 (g) The right of a municipality at its discretion to enter into an  
4 intergovernmental agreement with another municipality or a county for the  
5 transfer of development rights between jurisdictions. The transfer shall  
6 comply with this paragraph, except that if the sending property is located in  
7 an unincorporated area of a county, the approval of the development rights to  
8 be sent to a municipality shall comply with section 11-821.03.

9                 B. For the purposes prescribed in subsection A of this section, the  
10 legislative body may divide a municipality, or portion of a municipality,  
11 into zones of the number, shape and area it deems best suited to carry out  
12 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

13                 C. All zoning regulations shall be uniform for each class or kind of  
14 building or use of land throughout each zone, but the regulations in one type  
15 of zone may differ from those in other types of zones as follows:

16                 1. Within individual zones, there may be uses permitted on a  
17 conditional basis under which additional requirements must be met, including  
18 requiring site plan review and approval by the planning agency. The  
19 conditional uses are generally characterized by any of the following:

20                     (a) Infrequency of use.

21                     (b) High degree of traffic generation.

22                     (c) Requirement of large land area.

23                 2. Within residential zones, the regulations may permit modifications  
24 to minimum yard lot area and height requirements.

25                 D. To carry out the purposes of this article and articles 6 and 6.2 of  
26 this chapter, the legislative body may adopt overlay zoning districts and  
27 regulations applicable to particular buildings, structures and land within  
28 individual zones. For the purposes of this subsection, "overlay zoning  
29 district" means a special zoning district that includes regulations which  
30 modify regulations in another zoning district with which the overlay zoning  
31 district is combined. Overlay zoning districts and regulations shall be  
32 adopted pursuant to section 9-462.04.

33                 E. The legislative body may approve a change of zone conditioned upon  
34 a schedule for development of the specific use or uses for which rezoning is  
35 requested. If at the expiration of this period the property has not been  
36 improved for the use for which it was conditionally approved, the legislative  
37 body, after notification by certified mail to the owner and applicant who  
38 requested the rezoning, shall schedule a public hearing to take  
39 administrative action to extend, remove or determine compliance with the  
40 schedule for development or take legislative action to cause the property to  
41 revert to its former zoning classification.

42                 F. All zoning and rezoning ordinances or regulations adopted under  
43 this article shall be consistent with and conform to the adopted general plan  
44 of the municipality, if any, as adopted under article 6 of this chapter. In  
45 the case of uncertainty in construing or applying the conformity of any part

1 of a proposed rezoning ordinance to the adopted general plan of the  
2 municipality, the ordinance shall be construed in a manner that will further  
3 the implementation of, and not be contrary to, the goals, policies and  
4 applicable elements of the general plan. A rezoning ordinance conforms with  
5 the land use element of the general plan if it proposes land uses, densities  
6 or intensities within the range of identified uses, densities and intensities  
7 of the land use element of the general plan.

8 G. No regulation or ordinance under this section may prevent or  
9 restrict agricultural composting on farmland that is five or more contiguous  
10 acres and that meets the requirements of this subsection. An agricultural  
11 composting operation shall notify in writing the legislative body of the city  
12 or town and the nearest fire department of the location of the composting  
13 operation. If the nearest fire department is located in a different city or  
14 town from the agricultural composting operation, the agricultural composting  
15 operation shall also notify in writing the fire department of the city or  
16 town in which the operation is located. Agricultural composting is subject  
17 to sections 3-112 and 49-141. Agricultural composting may not be conducted  
18 within one thousand three hundred twenty feet of an existing residential use,  
19 unless the operations are conducted on farmland or land leased in association  
20 with farmland. Any disposal of manure shall comply with section 49-247. For  
21 the purposes of this subsection:

22 1. "Agricultural composting" means the controlled biological  
23 decomposition of organic solid waste under **AEROBIC CONDITIONS OR** in-vessel  
24 anaerobic ~~or-aerobic~~ conditions where all or part of the materials are  
25 generated on the farmland or will be used on the farmland associated with the  
26 agricultural composting operation.

27 2. "Farmland" has the same meaning prescribed in section 3-111 and is  
28 subject to regulation under section 49-247.

29 H. For the purposes of this section:

30 1. "Development rights" means the maximum development that would be  
31 allowed on the sending property under any general or specific plan and local  
32 zoning ordinance of a municipality in effect on the date the municipality  
33 adopts an ordinance pursuant to subsection A, paragraph 12 of this section  
34 respecting the permissible use, area, bulk or height of improvements made to  
35 the lot or parcel. Development rights may be calculated and allocated in  
36 accordance with factors including dwelling units, area, floor area, floor  
37 area ratio, height limitations, traffic generation or any other criteria that  
38 will quantify a value for the development rights in a manner that will carry  
39 out the objectives of this section.

40 2. "Receiving property" means a lot or parcel within which development  
41 rights are increased pursuant to a transfer of development rights. Receiving  
42 property shall be appropriate and suitable for development and shall be  
43 sufficient to accommodate the transferable development rights of the sending  
44 property without substantial adverse environmental, economic or social impact  
45 to the receiving property or to neighboring property.

1       3. "Sending property" means a lot or parcel with special  
2 characteristics, including farmland, woodland, desert land, mountain land,  
3 floodplain, natural habitats, recreation or parkland, including golf course  
4 area, or land that has unique aesthetic, architectural or historic value that  
5 a municipality desires to protect from future development.

6       4. "Transfer of development rights" means the process by which  
7 development rights from a sending property are affixed to one or more  
8 receiving properties.